Docket No. MCP 264

NOV 0 7 2003 IN T

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Codispoti, Joseph R.

Serial No.

09/709,069

Art Unit: 1614

Filed

May-23-02

9 November 2000

Examiner: Jagoe, D.

For

METHOD FOR TREATING MIGRAINE SYMPTOMS WITH IBUPROFEN

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on

> 23 May 2002 ((Date of Deposit)

Michale G. Mangini
(Name of applicant, assignoe, or Registered Representative

23 CUOY 2002 (Date of Signature)

Assistant Commissioner For Patents Washington, D.C. 20231

## SUPPLEMENTAL DECLARATION UNDER 37 CFR 1.131

#### Dear Sir.

- 1. This Supplemental Declaration is submitted to supplement the Declaration Under 37 CFR 1.131 malled on 25 August 2000 in response to the 30 March 2000 Office Action in the parent application, United States Serial No. 09/449,124 (herein "Declaration"). During the prosecution of the above-referenced application, I became aware of the fact that the Declaration contained an inadvertent typographical error in the page number listed for the Furey Abstract. This inadvertent error is corrected in Paragraph 2 herein.
- 2. This Supplemental Declaration is submitted to establish completion and reduction to practice of the invention in the above-identified application in the United States at a date prior to 24 August 1999. It is my information and belief that the Information Center of McNeil Consumer & Specialty Pharmaceuticals Division of McNeil-PPC, Inc., the assignee of record to the entire right, title, and Interest in the above-identified application (hereinafter "Assignee"), received a copy of the abstract entitled "Efficacy and Safety of Ibuprofen (I) Liquigels in Migraine Headache: A Randomized, Double-Blind Placebo-Controlled Study" by Furey, et al., as published in Volume 39(9) of the Journal of Clinical Pharmacology on page 978 (Sept. 1999) (hereinafter "Furey Abstract"), on or about 24 August 1999. It is further my Information and belief that this volume of the Journal of Clinical Pharmacology was mailed to its subscribers on or about 20 August 1999. A copy of the Furey Abstract is attached hereto as Exhibit A. The Furey Abstract was cited in the Office Action mailed on 27 February 2002 in the above-referenced application.

- 3. I, Joseph R. Codispoti, MD, am the sole inventor on the invention described and claimed in the above-identified application.
- 4. As of approximately August 2001 until the present, I am employed by Sanofi-Synthelabo Research and Development located at 9 Great Valley Parkway, Malvern, PA 19355. Previous to that date, and at and before the completion of the invention, I was in the employ of the Assignee.
- 5. I understand that the claims of the present invention have been rejected in view of the Furey Abstract.
- Appended hereto as Exhibit B is a true copy of the Clinical Study Report entitled "A Single Dose, Randomized, Double-Blind, Placebo-Controlled Study Evaluating the Safety and Efficacy of Ibuprofen 200 mg and 400 mg for the Treatment of Migraine Headache Pain (hereinafter "Report"), which was performed at my request and which memorializes the conception and reduction to practice of the claimed invention.
- 7. On page 12 of the Report, it can be seen that the invention of this application, i.e. a method for miligation or treating photophobia and phonophobia associated with migraines by providing an effective amount of ibuprofen as the sole anti-migraine agent, was made prior to August, 1999, which is earlier than the 35 USC §102(f) date of the Furey Abstract.
  - 8. All dates that have been redacted in the Exhibit are before August, 1999.

8. I, Joseph R. Codispoti, further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further declare that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 35 USC §1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or patent issuing thereon.

Joseph R. Codispoti, MD

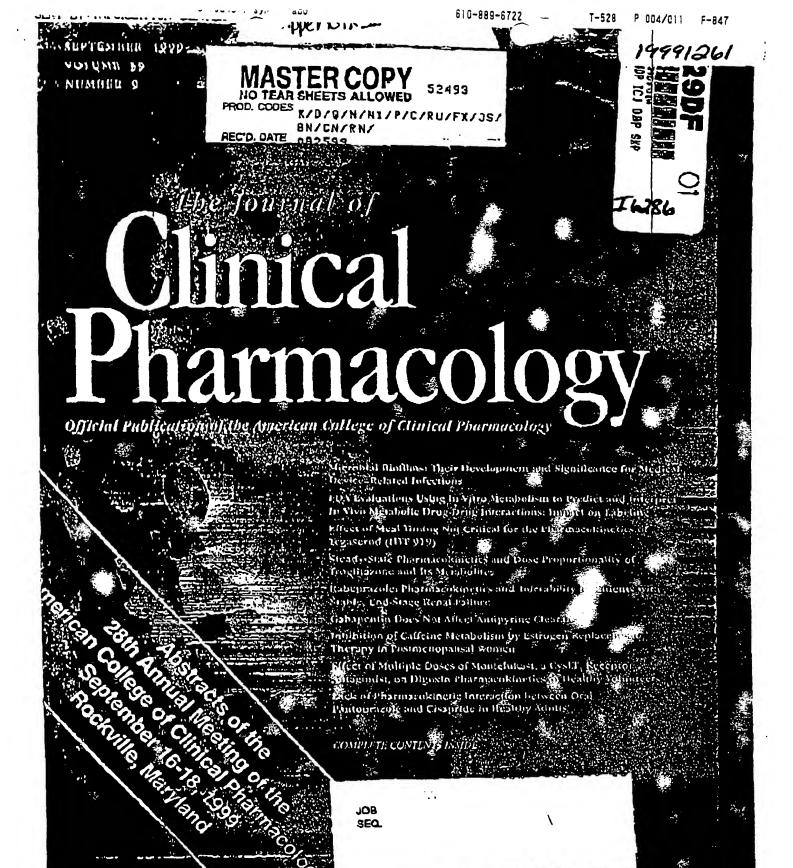
Country of Citizenship: USA

Northington Rd Phila, PB

Appendix A: Furey Abstract

Appendix B: Clinical Study Report

Mcp264-131decn.doc



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ExhibitA

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## TWENTY-BIGHTH ANNUAL ACCP MEETING ABSTRACTS

34

5.ay-43-04

EFFICACY AND SAFETY OF BUPROPER () LIQUIDELS IN MICRANE HEADACHE: A RANDOMOTED, DOUBLE-BLIND, PLACEBO-CONTROLLED STUDY. S.A. Farm. D. Kelinein's, R. Gold's, B. An's, P. Consillo's, I. Sape's. Modical Department. Whithall Bobins Healthour, Malison, M. and Michigan Head-Pais & Nourological Leville, Acu Arbor, MI.

We compared I 40ting and I 600ton administrated as Equipels to photo OTO) among subjects with modestar or severe transmine hardsoft at baselies. At 0,25, 0,5, 1, 1.3, 2, 3, 4, 5, 5, 7, 8, and 34h after dotting subjects mend pain intensity on a framepaint and called pain relici en a tivo-potpa categorical soule. Subject also meed the associant migrator symptoms of neural photophobia and photophobia and proceed their limitables of service (LOA) using a panily of lik index simples from 0 (asses) to 3 (where). The primary codpoint was the cumulative % of superdext by the 2 suprender was a subject where the indexting we readed from severe or moderns or baseline to mild at many conductant. We solved the following require:

Endpoint	PEO	(400mg	(Musis)
Cumelstive respondent 2h (%)	47	270	39*
SPRED (alen)	7.0	0,94	10.7*
Median   perceptitio reletioned	66	479	4Q*
LOA Imporcarse (Gh)	0.5	3,00	2.92
Namena proportional (49)	0.2	0.5*	0,5"

(" peo.03 va. FBO). I 400me and course were both eleminements superior to PBO in the cumulative % of subjects tritle on surrect. photophobia, and photophobin over the I coming traded to demonstrate a small pumperical advantage over 400mg, I 400mg and deficultivité à initial primere automaté de précision automaté des les considerations de l'écologies de la comparable de POS: Bused en those dels, we executives that I 400-comme enterieur miteraire pals materia entires materiales m

EMD 132 11A PHARMACOKINETICS QF ESCALATING SINGLE ORAL DOSES OF GANTOPIDAN, A NEW GLYCOPROTEIN LIBITIA RECEPTOR ANTAGONIST.

NEW GLYCOPROTEN IBRILIA RECEPTOR ANTAGONIST.

Bend Melbohn, Roband Neugebbors, Earl-Uriob Buhrags,
Michael Schules, and Abdrew Korars. College of Phormocy,
University of South Carolina, Columbia, 5Cc and Clinical
Phormocylogy, Merck ECAA, Darmound, Germany.

Cantoliban to an apilly evaluable couble prodrug. Blockivation
results in the active fuetaboline EMD 132 334 a putter, reversible,
results in the active fuetaboline EMD 132 336 a putter, reversible,
non-peptide antagonder of the glycoproduct librium receptor (GPR)
for the inhibition of planolet aggregation associated with
thromboembolic events. In a place I clinical study, the
phitmaemicancies of EMD 132 338 were evaluated in acquential
propers of healthy mile subjects after since and done of 2.1 mests. groups of healthy male subjects after single oral doses of 2.5 (m=9). 5 (n-9), 7.5 (n-1), and 10 (o-6) mg gandibus, respectively. Total (OPR bound & unbound) placem concentrations of EMD 132 338 were monutated Dr. 48 hours post-dam using a validated HPLC assay, and were subjected to concumpantmental phorospolitieste analysis. After and administration, garabbase is rapidly absorbed and converted into its active metabolite BMD 132 338. Missimum plasma concentrations Com worn reached after a top of 1.53 ± 0.92 h (main a SD). Com followed dece-propersionality, ranging between 3.5 - 20.7 ng/ml with a relatively assall interindividual variability at all date identa (CV -25%). The area under the curve AUC, also increased dose-dependently but loss than accessory for formal desemposperiously, worst thety due to an increased climination of EMD 132338 at concentrations beyond samuration of the blackage of the blackage of the blackage of the control of the blackage of the control of the blackage of the control of the blackage of the bl term oral thempy.

978 • J Clin Pharmacol 1999;39:969-985

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effect of neverapine on human blood CLUTATHIONE LEVELS AND SUBCHRONIC TOXICITY AFTER DERMAL ADMINISTRATION TO RATS. Chukwwemeka S. Okereke. Univ. of Rhode Island College of Pharmacy, Roger Williams Med. Gent. Providence, B.I.

Nevitapina (NVP) is a potent non-nucleoxide reverse transcriptuse inhibitor that has been shown to insativate the human immuno-deficiency virus upon administration. Community, arranges as roducing incidences of vertical transmission of the virus (mather to child) have focused on the use of pharmacological agents in "birth canal eleansing" during child labor and delivery. Pollowing subchroule administration of NVP to lemnic this twice daily for 4-weeks, body weight, clinical chemistry and bematological parameters were not affected. However, invivo blood glumphione (CSH) was reduced. Similarly, invited blood GSH time column in homone and rate were reduced latitudly up most 45 minutes and gradually returned to control levels thereafter. The robound in CSH levels is probably due to a compensatory mechanism due to OSH-reductuse enzyme. Based on these saidles, NVP does not seem to produce any appreciable dermai effects in rats.

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CABAPENTIN SINGLE-DOSE PHARMACOKINETICS IN HEALTRY INF ANTS AND CHILDREN Genere M. Hate \*, Howard N. Booktrader \*, David L. Wesche \*, Sound W. Bostner \*, Richard Brown \*, Nancy Janiere's Dolphin \*, and Edward L. Poster, Parise-Davis Faurance deal Research; Asia Arbor, ML

Research Ann Arour, Ma.

Gabapenth (Neuronda) is a garant-amhabutyric sold
sealogue indicated in adults for adjunctive transactive partial
science with or without secondary generalization. Two shelies
were conducted to desentine the imploduce plantacoldecides
were conducted to desentine the imploduce plantacoldecide. of galapartin in healthy subjects age I month to 12 years and to guide done selection in eating and efficiency while in positionic princips for the above indication. Porty-eight subjects were given a single dose of gabapenein 10 marky administrated praily while fixting. Excellment was homogeneously distributed throughout the age range. Pleases samples were deave produce then serially for 26 hours. A single done of gabayerate wis well tolerated by healthy pediatrie subjects. Flow of ege vs. AUC(0et) expected differences in younger (1 mouth to 4 young) vs. older (3 to 12 years) subjects. Idean AUC(II-C) was 25.7 us before in younger subjects and 36.0 up before in older applicable (p-0.001). Charance (permaited to weight) was 7.15 ml/mirks for younger subjects and AAI ml/mirks for pider subjects (prof. 901). Neva peak plasme concentration (Cinar) were 3.74 and 4.32 magnit, respectively (prof. 90). Distribution in the calculated bioavailability could not sufficiently copies the disparity in AUC. Patterns between 1 month and 4 years require an approximate 30% larger daily does to achieve deniller drog exposures to doore pations between 5 and 12 years of age.

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# AppendixII.

# MCNEIL CONSUMER HEALTHCARE

# CLINICAL STUDY REPORT



PHASE III

A Single-Dose, Randomized, Double-Blind, Placebo-Controlled Study Evaluating the Safety and Efficacy of Ibuproten 200 mg and 400 mg for the Treatment of Migraine Headache Paln.

START DATE:

END DATE:

Report Date Report No.

Daniel G. Gawarecki, MS Blostatistician.

Statistical Services

237

Date

(25) J Date

Brenda Zimmerman, MS

Assistant Director,

Statistical Services

Director.

Statistical Services

Vanessa Burczynski, BS

Medical Program

Administrator,

Clinical Devel pment

R. Codispotk MD

Director.

Clinical Devel pment

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Exhibit B

Date

Date

Date

Clinical Study Report Ibunroten Tablet 200mg McNeil Consumer Healthcare

### 1. SYNOPSIS

Name of Sponsor/Company McNeil Consumer Healthcare	Individual Referring Dossier	Study to Part	Table of the	(For National Authority Use Only)
Name of Finished Product:  Motrin Migraine (Ibuprofen Tablet 200 mg)	Volume:	*		J.,,,
Name of Active Ingredient:	Paga:			

Tille of study: A Single-Dose, Randomized, Double-Blind, Placebo-Controlled Study Evaluating the Salety and Efficacy of Ibuprofen 200 mg and 400 mg for the Treatment of Migraine Headache Pain.

Investigators: The 16 investigators are listed in Section 4, Investigators and Study Administrative Structure

Study Centers: The 18 Investigative sites are listed in Section 4, Investigators and Study Administrative Structure

Study period:

Phase of development: \\\

Objectives: The purpose of this study was to evaluate the efficacy and safety of Euprolen 200 mg and buprolen 400 mg for the treatment of pain associated with migraine headache. .

Methodology: This was a multicenter, single-dose, randomized, double-blind, parallel, placebo-consuled study of approximately 600 subjects, 18 years of age and older, experiencing at least moderate pain associated with migraine headachs. Following a screening visit, eligible subjects were randomly assigned to either ibuproten 200 mg, buproten 400 mg or placebo. Subjects left the investigative cemer with one dose of blinded study drug, a timing device, and a subject diary. After the occurrence of a migraine headache of at least moderate intensity, subjects dosed with study medication and recorded in the diary the date and time of study medication administration. Efficacy and safety were essessed at specified intervals for six hours following the use of study medication. Subjects returned to the site for a follow-up visit within 72 hours after dealing with study medication.

Number of subjects:

This study was designed for the completion of at least 600 subjects. Data were evaluable for 649 subjects, all of whom were included in an interri-to-treat efficacy analysis. All subjects who doesd with study medication and who had efficacy data were included in the intent-to-treat analysis. Data were available for 641 subjects in the per-protocol analysis. The table below summarizes the distribution of these subjects by treatment group.

	ibu 200 mg	ibu 400 mg	Placabo	Total
Enrolled	240	239	234	719
Intent-to-Treat	216	219	214	649
Per-Protocol	214	214	213	641
	7.			





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Clinical Study Report puproten Tablot 200mg McNeil Consumer Healthcare

Name of Sponsor/Company McNeil Consumer Healthcare	Individual Referring Dossier	Study to Part	(For National Authority Use Only)
Name of Finished Product: Motrin Migraine (Ibuprofen Tablet 200 mg)	Volume:		
Name of Active Ingredient: ibuprofen			

The table below summarizes the demographic characteristics for all subjects enrolled:

Characteristic	- Ibu 200 mg	Ibu 400 mg	Placebo	Total
	(N = 240)	(N = 239)	(N =234)	(N = 713)
Sex (n,%) Male Fomale	42 (17.5) 198 (82.5)	35 (14.8) 204 (85.4)	34 (14.5) 200 (85.5)	111 (15.6) 602 (84.4)
Mean age (yra)	38.9	88.5	38 <i>2</i>	38.6
Race (n.%) Calicatian - Aidcan-American Other	75 (89.2)	200 (83.7)	206 (88.0)	620 (87.0)
	75 (8.2)	18 (7.5)	12 (5.2)	45 (8.3)
	11 (4.6)	21(8.8)	18 (6.8)	48 (6.7)

Diagnosis and main criteria for inclusion: Migraine headache. Subjects were required to have history of one migraine headache every two months to six migrains headaches per month that were not debilitating or incapacitating.

Test product, dose and mode of administration, batch number: Study drug treatment was Motrin IB, 200 mg and 400 mg, oral tablet, control number C-779-1B.

Duration of treatment: Subjects were treated with a single dose of study drug when they experienced a migraine. Subjects were evaluated for six hours after starting treatment. After dosing with study medication, subjects returned to the investigative site for a follow-up visit.

Reference therapy, dose and mode of administration, batch number: Reference therapy consisted of an oral placebo tablet, control number C-220-6A.

### Criteria for evaluation:

Efficacy: The primary efficacy endpoint was the percentage of subjects who experienced a reduction in baseline pain Intensity from severe (3) or moderate (2) to mild (1) or none (0) at the two hour postmedication assessment time (defined as "responders"). An additional primary efficacy endpoint was the pain intensity difference from baseline at two hours. Secondary measures of efficacy included: percentage of subjects pain time at the hours. free at two hours; percentage of subjects with associated migrains symptoms reduced to zero at two and abo hours; time to rescue and rescue rate; pain intensity differences from baseline and pain relief from 0.5 to 6 hours; SPID, TOTPAR, severity differences from baseline for the associated migraine symptoms from 0.5 to 6 hours; emergence of associated symptoms; subject rating of overall impression of medication; and time to and intensity of recurrent headaches.

Safety: Safety assessments consisted of a routine physical examination at baseline and monitoring of adverse events.



Clinical Study Rep. Ibuprolen Tablet 200mg McNell Consumer He Ithcare

Name of Sponsor/Company	Individual	Study		(For National	
McNeil Consumer Healthcare	Reterring Dossier	to Part	of th	Authority Us	Only)
Name of Finished Product:					
Motrin Migraine	Volume:				
(Ibuprofen Tablet 200 mg)	Page:				
Name of Active Ingredient:	rage.				
ibuprofen					

Statistical Methods: There were three pairwise comparisons of interest for analysis: ibuprolen 200 mg vs. placebo, ibuprofen 400 mg vs. placebo, and ibuprofen 200 mg vs. ibuprofen 400 mg. Each of the statistical tests described below were performed for each treatment pair at the 0.05, two-tall alpha level. The intent-to-treat analysis was the primary analysis.

Primary Measures:

A Cochran-Mantel-Haenszel test of general association stratified by basefine level of pain imensity was used to make pairwise treatment comparisons of response rates. A three-way ANOVA (Treatment, Baseline Pain, Investigator) was used in the analysis of pain intensity difference (PID) from baseline at two hours; painwise treatment comparisons were made using Fisher's protected LSD technique. Additional pain measures:

The percent of subjects who were pain free was analyzed with a Cochran-Mantel-Haenszel test of general association, stratified by initial level of pain intensity. PIDs at times other than two hours and SPID were analyzed similarly to the analysis of PID at two hours. A two-way ANOVA (Treatment, Investigator) was used for the analysis of pain relief (PR) at each time point; TOTPAR was analyzed similarly.

Associated symptoms;

For subjects reporting each symptom at baseline, differences from baseline in severity of nauses, photophoble, phonophobia, and functional disability at each measurement interval during the six-hour follow-up paried were analyzed using analysis techniques identical to those outlined for PID above with the exception that the baseline seventy of each individual symptom was included in the ANOVA model in place of baseline headeche pain intensity. The rates of emergence of each associated symptom after baseline were analyzed using Fisher's exact tests. Pairwise treatment comparisons of the percentage of subjects with the severity of nauses. photophobia, phonophobia, and functional disability reduced to "none" at two and six hours were analyzed with Cochran-Mantel-Heenszel tests of general association stratified by baseline level of each symptom. The incidence of vomiting combined across all measurement intervals was compared using Fisher's Exact texts.

Pairwise treatment comparisons for the overall impression of the study medication were made using the extended Cochran-Mantel-Haenszel test with mean modified rick scores, stratified by Initial level of pain intensity. Pairwise treatment comparisons of time to recurrence of migraine headache were performed using the Wilcomon test available in the SAS" LIFETEST procedure. Only subjects who were "respondere" at two hours and had a micultaines of moderate or severe migraine were included in the analysis. Pairwise treatment comperisons of severity of the pain associated with the recurrent migraine headache were analyzed using a Cochran-Mantel-Haenszal test of general association, stratified by initial level of pain Intensity. Only subjects with a recurrent migrame headache warn included in this enelysis.

Painwise differences in the survival distributions between treatments for the time to rescue were conducted using the Wilcomm test available in the SAS® LIFETEST procedure. Rescue rates at six hours were enalyzed using a Cochran-Mantel-Hannszel test, stratified by initial level of pain intensity.

Subgroup analyses:

The two primary measures were analyzed by baseline pain, gender, and race. In addition, the percentage of responders at two hours was analyzed by menstruel status (yea/no).

Safety Monauroa:

The frequency of adverse events and frequency of withdrawal from the study were compared between treatment groups with chi-square tests.



Name of Sponsor/Company McNeil Consumer Healthcare	Individual Study Table Referring to Part of the Dossier	(For National Authority Use Only)
Name of Finished Product: Motrin Migraine (Ibuprofen Tablet 200 mg)	Volume:	·
Name of Active Ingredient: ibuprofen		

Efficacy Results: Key demographic and baseline characteristics of the intent-to-treat population are given

Characteristic	lbu 200 mg (N = 216)	ibu 400 mg (N = 219)	Piacebo (N = 214)	Total (N = 649)
Sex (n,%) Male Female	38 (16.7) 180 (83.3)	33 (15.1) 186 (84.9)	29 (13.6) 165 (86.4)	98 (15.1) 551 (84.9)
Mean Age (yrs)	38.8	38.5	38.5	38.6
Race (n,%) White African-American Other	191 (88.4) 14 (6.5) 11 (5.1)	185 (84.5) 15 (6.8) 19 (8.7)	191 (89 <i>.2</i> ) 11 (5.1) 12 (5.6)	567 (87.4) 40 (6.2) 42 (6.5)
Baseline Palm (n,%) Moderate Severe	144 (66.7) 72 (33.3)	158 (72.1) 81 (27.9)	152 (71.0) 62 (29.0)	454 (70.0) 195 (30.0)

The key efficacy results from this study are summarized in the table below:

THE KEY SHALLY					Significano	Bu 200
	lbu 200	lbu 400	Piacebo	lbu 200 va Placebo	Placebo	150 200 150 400 NS
Endpoint Pain to mild or none at 2 hours* (%)	39.61	41.10	25.64	9	3	NS
Baseline Pain = Moderate	49.31	46.57	28.95	S	S	NS
	20.89	29.51	20.97	NS	NS	
Baseline Pain - Severe	0.67	38.0	0.35	5	8	NS
PID at 2 hours (mean)	0.58	0.51	0.14	S	Ş	NS
Baseline Pain - Moderate		1.02	0.85	NS	NS	NS
Baseline Pain = Severe	0.91		8.54	s	S	NS
Pain to none at 2 hours (%)	13.43	15.98		8	s	NS
SPID (mean)	4.17	4.01	2.05	S	s	NS
TOTPAR (mean)	9.63	9.52	6.65	-	s	NS
Overall Impression of Medication (mean)	1.14	1.14	0.66	S	<del>-</del>	NS
Recurrence within 24 hours (%)	31.4	31.1	33.3	NS	NS	

a: S: p < 0.05; NS: p > 0.05. b: Primary endown

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	Name of Sponsor/Company McNeil Consumer Healthcare	Individual Referring	Study to Part	(For National Authority Use Only)
	Michaell Consumer Healdicare	Dossier	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
1	Name of Finished Product:			
1	Motrin Migraine	Volume:		
	(Ibuprofen Tablet 200 mg)			
		Page:		· ·
	Name of Active Ingredient:			}
	ibuprofen			ĺ
	£	1		t .

In addition to these results, there was a significantly greater reduction from baseline in mean severity. It migraine-associated symptoms of photophobia and functional disability in both ibupraten groups compared to placebo at all time points in the interval from two to six hours after dosing. For phonophobia, mean severity differences were significant only for the 400 mg ibupraten dose relative to placebo from one to six hours and for nausea, there were no differences between treatments at any time interval.

Safety Results: Ibuproten was well tolerated and no safety issues were identified in this migraine headache population. Overall 34.8% of subjects reported adverse events; there was no significant difference among treatment groups. In addition, drug-related adverse events were reported by 24.7% of study subjects; there was no significant difference among treatment groups. The most common adverse events were in the digestive system (mainly nausea and vomiting), occurring in 30.2% of study subjects. There was no significant difference among treatment groups; it is incretore most likely that these symptoms represent the normal sequelae of a migraine headache attack. No serious adverse events or deaths were reported. Three subjects discontinued therapy due to adverse events, two subjects in the ibuprofen 400 mg group and one subject in the placebo group.

Conclusions: Ibuprolen at OTC doses of 200 mg and 400 mg is an effective treatment for the temporary relief of migraine headache pain and the associated symptoms of migraine including photophobia and functional disability.

Efficacy results for subjects with severe migraine pain intensity are not inconsistent with the current labeling regarding OTC lbuprolen dosing which directs consumers to take 400 mg if pain does not respond to 200 mg.

All secondary efficacy measures including pain relief and pain intensity difference showed effects consistent with the primary efficacy outcome measures.

lbuprofen was well tolerated and no safety issues were identified in this migraine headache population. There were no significant differences between either dose of ibupraten and placebo in the incidence of adverse events. The seventy and nature of adverse events were similar among groups. No serious adverse events or deaths were reported.

Date of the report: (

